

**Remarks/Arguments:**

All claims of this application stand finally rejected under 35 U.S.C. section 103(a) as being unpatentable over Lonergan et al. (WO 98/30105) in view of Averbach (U.S. patent # 5,130,150), for the same reasons as set forth in the Office Action dated 03/22/05.

On February 9, 2006 the undersigned applicant's attorney Costas S. Krikelis and inventor Kevin T. Rogers met with the Examiner in an effort to advance the prosecution of this application. Applicants appreciate and thank the Examiner for her assistance in scheduling and holding this interview, as well as for her generous allocation of her admittedly limited time to hear the detailed explanation by the inventor of the reasons why the use of the term "proofing" as used in the present application is different from its use in page 12, last paragraph, of Lonergan et al. As explained to the Examiner, Lonergan appears to use indiscriminately the term "proofing" to mean "proofing" as accepted in the art (Page 9, first full paragraph) and for a step known in the art as "fermentation" (page 12).

No agreement was reached regarding this point.

Applicant's attorney then reiterated his belief that the combination of Lonergan and Averbach did not amount to a prima facie of obviousness for the reasons explained in the response to the previous office action which is reiterated here and which may be summarized as follows.

Ignoring for the moment the fact that the fat compositions recited in the two references applied is different from the fat composition used in the present application, the broadest claim is claim 1, claiming a process that requires two distinct applications of an edible fat composition, applications that are distinct in time. These are a pre-bake and a post bake application, the post bake application occurring while the dough emerging from the oven is still warm.

Lonergan does not suggest a second edible fat application or that there is any need for a further step following baking to generate the "fried" texture. Averbach teaches the application of an edible fat to a fried yeast raised doughnut to form an insulating continuous film over the doughnut surface to improve doughnut shelf life by preventing moisture from escaping. Averbach details both the composition and the temperature at which the fat is applied onto the doughnut surface but is silent as to the temperature of the doughnut when this process occurs. All that is stated in Averbach is that the process is applicable to yeast raised doughnuts.

The Examiner states that it would be obvious to the person skilled in the art to do the Averbach application as the doughnut exits the oven. However, Silva et al., U.S. patent number 4,293,572, on record in this application, discusses various compositions used to provide insulating layers on doughnuts to preserve freshness similar to the layer proposed by Averbach. Silva et al. states that the doughnut must be cooled before the insulating layer is applied or at a minimum that the doughnut surface must be cooled to a temperature between 90 and 100 degrees Fahrenheit, highly unlikely to be considered warm from baking. Considering that the doughnut product of the present application bakes in an oven at at least 410° F (210° C) it is highly unlikely that its temperature would have dropped to such low levels within the three minutes or so discussed in the specification.

The above point was discussed with the Examiner during the interview, and the parties agreed that in so far as the process claims are concerned, the Examiner will reconsider the obviousness of the second fat application step as claimed.

Reconsideration and allowance of all claims is requested with particular emphasis on claims 1-14.

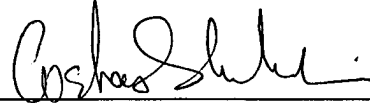
Appln. No. 10/624,062

Request for Reconsideration dated 02/15/06

Reply to Office Action of October 31, 2005

RWB-040US1

Respectfully submitted,



Costas S. Krikelis, Reg. No. 28,028  
Attorney for Applicant(s)

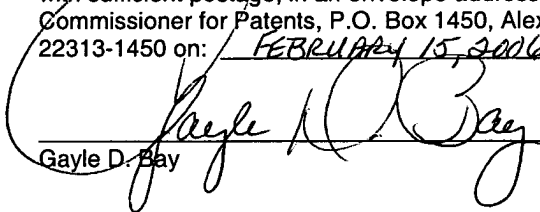
CSK/gdb

Dated: Feb. 15, 2006

☒ P.O. Box 1596  
Wilmington, DE 19899  
(302) 778-2500

The Commissioner for Patents is hereby  
authorized to charge payment to Deposit  
Account No. **18-0350** of any fees associated  
with this communication.

I hereby certify that this correspondence is being deposited  
with the United States Postal Service as first class mail,  
with sufficient postage, in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA  
22313-1450 on: FEBRUARY 15, 2006

  
Gayle D. Bay